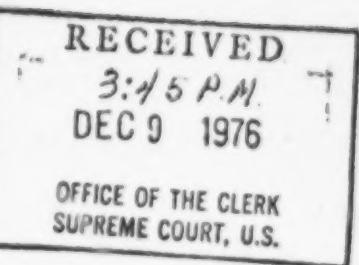


IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1976

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Nos. 75-1261  
75-1355

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SECRETARY OF AGRICULTURE,

Appellant,

vs.

KAREN HEIN, et al.,

Appellees.

---

KEVIN J. BURNS, etc., et al.,

Appellants,

vs.

KAREN HEIN, et al.,

Appellees.

---

ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF IOWA

---

MOTION FOR LEAVE TO FILE SUPPLEMENTAL MEMORANDUM, *after argument*

Appellees hereby move this Court for permission to file the attached Supplemental Memorandum in the above-captioned action, pursuant to Rule 41(5) of the Rules of this Court. In support of this motion, the appellees state as follows:

1. During oral argument of this case, certain points were raised that had not previously been raised or addressed by the parties, and counsel for the appellees was not able to address them fully or provide citations to authority during argument.

2. On November 26, 1976, three days prior to the oral argument of this case, the appellants in No. 75-1355 filed a reply brief. Because

counsel for the appellees did not receive a copy of this brief on November 26th, he was not able to review it carefully prior to oral argument or to respond to it during oral argument.

3. The purposes of the attached memorandum are (a) to provide specific citations to authority with regard to one point raised in oral argument, and (b) to address very briefly one assertion made in the reply brief in No. 75-1355.

WHEREFORE, the appellees request that they be permitted to file the attached Supplemental Memorandum.

Respectfully submitted,

*Robert Bartels*

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Attorney for Appellees

Nos. 75-1261  
75-1355

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ON APPEAL FROM THE UNITED STATES DISTRICT  
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SUPPLEMENTAL MEMORANDUM

This memorandum is submitted to address briefly two points raised in oral argument and in the reply brief of the appellants in No. 75-1355.

1. During oral argument, there was discussion of the administrative costs that would be involved in determining what portion of the "training related expense allowance" of a participant in a "full-time" Individual Education and Training Plan was necessary to travel in connection with the Plan. Counsel for the appellees indicated that the costs would be minimal for several reasons, including, inter alia, the fact that the state appellants (who actually administer the Food Stamp program in Iowa) must in any event make the same determination in connection with their administration of the AFDC program. This argument involved two propositions,

both of which are true but neither of which was supported by specific citation to authority during argument. The first proposition was that all participants in Individual Education and Training Plans in Iowa must be AFDC recipients; this proposition is supported by Pages XIII-8-1 and XIII-8-2 of the Iowa Department of Social Services Employees' Manual  
<sup>1/</sup> (see Appendix A to this Memorandum). The second proposition was that in computing income for purposes of deciding eligibility and benefit levels for AFDC benefits, the state appellants must determine and exclude that portion of a "training related expense allowance" that is necessary for travel in connection with an Individual Education and Training Plan; this proposition is supported by 45 C.F.R. 233.20(a)(3)(iv)(b), which states in pertinent part that "loans and grants . . . obtained and used under conditions that preclude their use for current living costs" may not be included in "income" for AFDC purposes.

2. In their reply brief, the state appellants "estimate" that it would take approximately 27,256 man hours to comply with the second part of the District Court's Order, which concerns the adjustment of future food stamp purchase prices for food stamp recipients whose benefits have been reduced improperly in the past under the appellants' "income" policies. (State Appellants' Reply to Appellees' Brief, p.7, fn.6). This "estimate" is unsupported by anything more than a guess by a "state official." Moreover, it is apparently based on an extraordinarily overblown procedure for complying with the District Court's Order. In order to comply with the second part of that Order, the state appellants could simply post a notice in all Department of Social Services offices notifying current food stamp recipients of the Court's Order and telling recipients that might be covered by the Order to so inform their caseworkers. Caseworkers

could then determine from past records for those recipients who identified themselves the amount by their food stamp purchase prices had been improperly increased. [If the state appellants wished to verify travel expenses on an individual basis, they could require recipients seeking an adjustment to fill out an affidavit stating how much of their training related expense allowances had been used for educational travel expenses; such an affidavit is all that is required under federal food stamp regulations for AFDC recipients, 7 C.F.R. 271.4(a)(1).] Even if every one of the 3,407 trainees that have participated in Individual Education and Training Plans since 1973 were still on food stamps, the above-described procedure would not involve any extraordinary administrative effort by the state appellants.

Respectfully submitted,

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(319) 353-4031

Attorney for Appellees

<sup>1/</sup> A woman who is ineligible for AFDC because she is living with her parents but whose child is receiving AFDC is eligible for child care assistance under limited circumstances, Employees' Manual XIII-8-2; however, this does not affect the appellees' argument.

APPENDIX A: SUPPORTIVE MATERIAL

1. Iowa Department of Social Services Employees' Manual, p. XIII-8-1:

"INDIVIDUAL EDUCATION AND TRAINING PLAN"

ORGANIZATION AND ADMINISTRATION

Program objectives

. . . The IETP offers vocational training and job placement opportunities to qualified AFDC recipients."

2. Iowa Department of Social Services Employees' Manual, p. XIII-8-2:

"INDIVIDUAL EDUCATION AND TRAINING PLAN"

PROCESS (cont'd)

\* \* \*

Client Eligibility for IETP Services

All AFDC recipients may be considered for IETP services. In addition, the Individual Education and Training Plan may pay child care assistance for an unmarried mother who wants to return to high school, who lives in her parents' home and is ineligible for ADC but has a child receiving ADC. This allowance can be made only when there is no one in the home to provide care."